## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

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EIII A ADELGON	) W.D. OF TH, WENTHIS
EULA ARTISON, et al.,	)
Plaintiffs,	)
vs.	) Civ. No. <u>05-2254-B/P</u>
WYETH CORPORATION,	) }
Defendant.	) )

## ORDER GRANTING DEFENDANTS' JOINT MOTION TO STAY ALL PROCEEDINGS PENDING TRANSFER TO MDL 1203

Before the court is defendants' Joint Motion to Stay All Proceedings Pending Transfer to MDL 1203 Pursuant to 28 US.C. 1407, filed on April 29, 2005 (dkt #8). This motion was referred to the Magistrate Judge for determination. Local Rule 7.2(a)(2) requires that

the response to the motion and its supporting memorandum . . . shall be filed within fifteen days after service of the motion and shall be accompanied by a proposed order. Failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

The time for filing a response to plaintiffs' motion to stay has passed. On this basis, the motion is GRANTED.

Moreover, since December 1997, the Judicial Panel on Multidistrict Litigation ("MDL Panel") has transferred over 4,250

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diet drug cases to the United States District Court for the Eastern District of Pennsylvania for consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. On April 18, 2005, the defendants submitted a suggestion of tag-along to the MDL Panel for transfer of this case to the MDL court. Defendants state that the MDL Panel has transferred every diet drug case referred to it to date. If, as defendants assert, there are no circumstances that would warrant making this diet drug case an exception to the MDL Panel's transfer policy, a stay of litigation pending a transfer decision from the MDL panel would conserve judicial resources and avoid inconsistent rulings.

The scheduling conference set for June 9, 2005 is canceled. If the case is not transferred, the parties shall contact this Magistrate Judge within three days to set a new date for the scheduling conference.

IT IS SO ORDERED.

TU M. PHAM

United States Magistrate Judge

Date



## **Notice of Distribution**

This notice confirms a copy of the document docketed as number 14 in case 2:05-CV-02254 was distributed by fax, mail, or direct printing on May 25, 2005 to the parties listed.

Timothy R. Johnson BASS BERRY & SIMS PLC- Memphis 100 Peabody Place Ste. 900 Memphis, TN 38103

Robert G. Germany KELLY KELLY & ALLMAN 629 E .Main Street Hendersonville, TN 37075

Jennifer M. Eberle BASS BERRY & SIMS PLC 100 Peabody Place Ste. 900 Memphis, TN 38103

Eric Alexander REED SMITH LLP 1301 K Street, N.W. East Tower - Ste. 1100 Washington, DC 20005

William G. Frey WOLFE BLOCK SCHORR & SOLIS-COHEN, LLP 1650 Arch Street 22nd Floor Philadelphia, PA 19103

Clinton L. Kelly KELLY KELLY & ALLMAN 629 East Main Street Hendersonville, TN 37075--260

Samuel L. Felker BASS BERRY & SIMS PLC 315 Deaderick Street Ste. 2700 Nashville, TN 37238--000 Thomas L. Parker
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ- Memphis
165 Madison Ave.
Ste. 2000
Memphis, TN 38103

Darren Nicholson ARNOLD & PORTER 555 Twelfth St., N.W. Washington, DC 20005

Honorable J. Breen US DISTRICT COURT